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Proposals and contributions received from Governments

Belarus: proposals concerning the future United Nations Convention against Corruption

1. The draft of the future convention must be an independent and broad instrument with binding force, drawn up taking account of all the instruments agreed under United Nations auspices that are aimed at uniting the efforts of the international community in the fight against corruption, including the United Nations Convention against Transnational Organized Crime (General Assembly resolution 55/25, annex I).

2. In the light of the opinion of those developing the draft convention regarding the utility of including in the text sanctions to be imposed as punishment for illegal acts in the form of penalties under criminal, administrative and civil law, the future convention should be drawn up exclusively on the basis of respect for state sovereignty, territorial integrity and non-interference in the internal affairs of States.

3. In order to simplify the procedures for signing and subsequently acceding to the convention and also for making any amendments or additions to national legislation, Belarus considers that, in the process of drafting the future convention, account should be taken of the differences that exist between national legal systems.

4. The scope of application of the convention should include not only acts related to corruption and falling within the definition of transnational organized crime, but also those forms of corruption not classifiable in that category of criminal offences.

5. Particular emphasis in the preparation of the draft should be placed on the set of preventive measures. It is proposed that the bulk of the draft be devoted to measures to prevent corruption and that they be drawn up with the assistance of a wide circle of experts, including experts in the spheres of banking and finance.

6. The question of criminalizing acts related to corruption is one of fundamental importance. Ensuring that the draft includes the widest possible grounds and conditions for criminal responsibility will make it possible to harmonize the

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national legislations of Member States and guarantee their successful cooperation in the realm of international law.

7. The provisions of the future convention should make for strengthened cooperation among the parties thereto with a view to curbing and combating corruption in its different forms.

8. The text of the convention should include a set of measures aimed at encouraging the employees of banking, credit and financial institutions to detect and prevent the commission of various illegal money-laundering transactions.

9. The convention should set out criteria for the return of funds of illicit origin.

10. Accordingly, the structure of the future draft convention should include the following main elements:

1. Definitions.
2. Scope.
3. Protection of sovereignty.
4. Measures to prevent corruption.
5. Criminalization.
6. Sanctions.
7. Jurisdiction.
8. Liability of legal persons.
9. Protection of witnesses and victims.
10. Inapplicability of bank secrecy.
11. Mutual legal assistance.
12. Joint investigation.
13. Collection, exchange and analysis of information (including establishment of criminal record).
14. Extradition.
15. Transfer of criminal proceedings.
16. Transfer of sentenced persons.
17. Prevention of the cross-border transfer of funds of illicit origin (with no restriction of or restraint upon the free flow of licit funds).
18. Detection, seizure, confiscation and return of proceeds from corruption (including criteria for determining the States of origin of such proceeds).
19. Disposal of confiscated proceeds.
20. Technical assistance.
21. Relation with other international treaties.

11. The draft convention should also include provisions allowing for the possibility of supplementing it with protocols and instruments of other types forming an integral part of the future convention.